

Do you want to change or cancel a restraining order ?

HOW TO:

- Ask the Court to MODIFY (change) your restraining order or;
- Ask the Court to VACATE (take off) your restraining order.

WHEN TO USE:

- You already have already applied for and received a restraining order against someone in Family Court at a Court hearing.
- **Note:** If you have a restraining order against someone through the criminal court, you cannot use this paperwork. You may call the restrained person's probation officer or the victim advocate at the DA's office. The victim advocate's number is (408) 792-2546.

Restraining Order Help Center,
Superior Court, County of Santa Clara
170 Park Center Plaza, CA 95113
408-534-5709

A. Fill out the attached blank forms (type or print neatly in blue or black ink) using the attached sample forms as a guide:

- **Order to Show Cause** (form #FL-300)
- **Application for Order and Supporting Declaration** (form #FL-310)
- **Proof of Personal Service** (form #FL-330)

You can get these forms from the Court's website at www.scservice.org (then click on "Family" and then "Rules/Forms"), you can buy them from Rose Printing (39 N. First St., San Jose 293-8177) or the forms will be provided to you if you come to the Center for help.

Since you have an existing case, no matter how old, you should use the same case number and the same case title (the parties will always be Petitioner and Respondent as they were in the first paperwork filed).

B. How to File Your Papers – Follow these easy steps *in order*, from 1 to 4:

1. Make **3 copies** of your completed papers (one for You, one for the restrained person, or one for the restrained person's attorney if they have one).
2. Bring the original and all the copies to the Calendar office or window at 170 Park Center Plaza and they will give you a **court date**.
3.
 - a. **File your papers** in the **Clerk's Office**. It is free to file in a case that has "DV" in the case number. The fee to file in other cases is about \$50.00.
 - b. **If your income is low and you want to ask to not pay the filing fee**, fill out and turn in an **Application for Waiver of Court Fees and Costs** packet (#982(a)(17) and 982(a)(18)). You can get a packet from the Clerk's office or the Self-Service Center. Sample fee waiver forms are available at the Self-Service Center. Turn your fee waiver forms into the Document Examiner in room 123. They will present your forms to the Judge for his or her approval. You will be asked to include at least one paystub and may be asked to return the next business day to pick up your filed papers, or they may be mailed to you.
4. **Serving the papers** – You **must have filed copies of the papers delivered personally** to the restrained party (and their attorney if they have one) at least **21 days** before the court hearing date.

IMPORTANT: You cannot serve the papers yourself

Papers can be served by an adult (18 years or older) who is not a party to the case or by a professional process server (find them in the telephone book).

These are the papers that must be hand-delivered to the other party:

- A *filed* copy of the **OSC** that has been signed by the Judge
- A *filed* copy of your **Application for Order and Supporting Declaration**, including all attachments.

- If you are filing other papers at the same time, they can be served at the same time.

You must also include papers to be used by the other party to respond to your OSC:

- A **blank Responsive Declaration to Order to Show Cause/Notice of Motion** (form #FL-320) – do not fill it out – it is for the other party to fill out!

Whoever delivers (“serves”) the papers must complete & sign the **Proof of Personal Service** (form #FL-330). The restrained party, who receives the papers, does not sign this form. The person who served the restrained party gives the Proof of Personal Service to you to file.

IMPORTANT: Bring the original Proof of Personal Service form to the Court with you the day of the hearing or file the original Proof of Personal Service with the County Clerk’s office before the hearing and bring a filed copy of the Proof of Personal Service with you to the hearing.

C. When you come to Court –

Bring a copy of all the papers in your case and also bring documents which help to prove the information in your Declaration. If you have any witnesses, they should also be present.

D. After your Court hearing –

You must write up the Judge’s orders and file them with the Clerk’s office. If you are representing yourself you may be referred to the Family Court Clinic where an attorney will write up your orders. The orders must be served on the other party by mail if they were not present at the hearing or can be mailed to them if they were at the hearing. Orders are written up on a **Findings and Order After Hearing** (form #FL-340).

If you still have questions, talk to an attorney for legal advice. Referrals to private and low-cost attorneys are available at the Self-Service Center or on the court’s website.

You must know the court’s local rules. They are available on the court’s website.